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WENDY STEVENS, individually and as Guardian ad Litem for K.S., a minor

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WENDY STEVENS, individually and as
Guardian ad Litem for K.S., a minor

Case No.: 4:17-cv-05312-DMR

Plaintiff,

**ORDER GRANTING MOTION FOR
ORDER APPROVING COMPROMISE OF
MINOR'S CLAIM**

vs.

UNITED STATES OF AMERICA,
Defendant.

Date: May 10, 2018
Time: 11:00 a.m.
Dept: TBA

INTRODUCTION

Plaintiff-minor, K.S., by and through her Guardian Ad Litem and natural mother, WENDY STEVENS filed this action against defendant United States of America on September 13, 2017. (Docket #1) arising out of an automobile collision which occurred on November 28, 2012 with a federal employee. The parties, after negotiations, have agreed to settle the lawsuit. Plaintiff-minor thereafter filed the instant motion for this court's approval of compromise with respect to K.S.' claim. The motion is unopposed and the Court finds the motion appropriate for determination without oral argument. Civil L.R. 7-1(b). Having considered the papers filed by Plaintiff, the

1 Court GRANTS the motion.

2 **BACKGROUND**

3 According to the complaint, this lawsuit arises from an accident which occurred on
4 Wednesday, November 28, 2012, in Brentwood, California, at approximately 7:00 p.m. Plaintiff
5 Wendy Stevens was driving the family's 2011 Ford Focus, headed northbound on Brentwood
6 Boulevard approaching its intersection with Balfour Road. Her then 11-year-old daughter, K.S.,
7 was seated in the right front passenger seat. Theresa Faga Jang, a federal employee, was driving a
8 2007 Ford Expedition owned by DHS ICE US Government. Ms. Jang was also headed
9 northbound and made an unsafe lane change into our client's path of travel, sideswiping the
10 Stevens' Ford Focus.

11 The reporting officer, Christopher Friedmann, cited Ms. Jang as the cause of the collision,
12 having made an unsafe lane change in violation of California Vehicle Code Section 21658(a).

13 The plaintiff-minor sustained injury to her right elbow and incurred medical bills of
14 \$6,269.45 which have been paid. The parties have stipulated to settle the instant action for the total
15 sum of \$100,000.00, allocated as follows: 1) to Wendy Stevens the sum of \$75,000.00; 2) to
16 plaintiff-minor K.S., the sum of \$25,000.00. After paying the lien reduced to \$2,500.00, attorneys'
17 fees of \$6,083.69 and costs of \$845.21, there remains a balance of \$15,571.10 which shall be kept
18 in a blocked savings account until the minor reaches the age of 18 on September 26, 2019.

19 **LEGAL STANDARD**

20 "District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c) to
21 safeguard the interests of litigants who are minors." *Rubidoux v. Rosengren*, 638 F.3d 1177, 1181
22 (9th Cir. 2011). "Rule 17(c) provides, in relevant part, that a district court 'must appoint a guardian
23 ad litem—or issue another appropriate order—to protect a minor or incompetent person who is
24 unrepresented in an action." *Id.* (quoting Fed.R.Civ.P. 17(c)). "In the context of proposed
25 settlements in suits involving minor plaintiffs, this special duty requires a district court to "conduct
26 its own inquiry to determine whether the settlement serves the best interests of the minor." *Id.*
27 (quoting *Dacanay v. Mendoza*, 573 F.2d. 1075, 1080 (9th Cir. 1978).

1 As the Ninth Circuit has recently made clear, in cases involving the settlement of minor's
2 federal claims, district courts should "limit the scope of their review to the question whether the
3 net amount distributed to each minor plaintiff in the settlement is fair and reasonable, in light of the
4 facts of the case, the minor's specific claim, and recovery in similar cases" and should "evaluate
5 the fairness of each minor plaintiff's net recovery without regard to the proportion of the total
6 settlement value designated for adult co-plaintiffs or plaintiffs' counsel—whose interests the district
7 court has no special duty to safeguard." *Id.* at 1181-82, citing *Dacanay*, 573 F.2d at 1078.)

8 ORDER

9 Upon review of the papers submitted, the Court finds the net recovery to K.S. to
10 be reasonable and the settlement to be in the best interest of the minor. Based on the foregoing,
11 the Court GRANTS the Motion for Order Approving Compromise of Minor's Claim.
12 Specifically, IT IS HEREBY ORDERED that:

13 1. The settlement of K.S.' claim against Defendant United States of America in the sum of
14 \$25,000.00 is APPROVED.

15 2. Defendant will pay a total of \$100,000.00 by check drawn on the Treasury of the United
16 States and made payable to WENDY STEVENS, Guardian ad Litem of the minor and the
17 Mastrangelo Law Offices, A Professional Corporation, EIN#94-2973320. The funds will be
18 deposited in Mastrangelo Law Offices, A Professional Corporation, Client Trust Account. The
19 \$100,000.00 is in settlement of both claims for Wendy Stevens and K.S., the minor. The
20 \$100,000.00 settlement shall be apportioned as follows: to plaintiff Wendy Stevens, and the
21 Mastrangelo Law Offices, A Professional Corporation, the sum of \$75,000.00; to Wendy Stevens,
22 as Guardian ad Litem for the minor, K.S., the sum of \$25,000.00. The settlement funds of
23 \$25,000.00 for the minor, K.S., will then be distributed as follows:

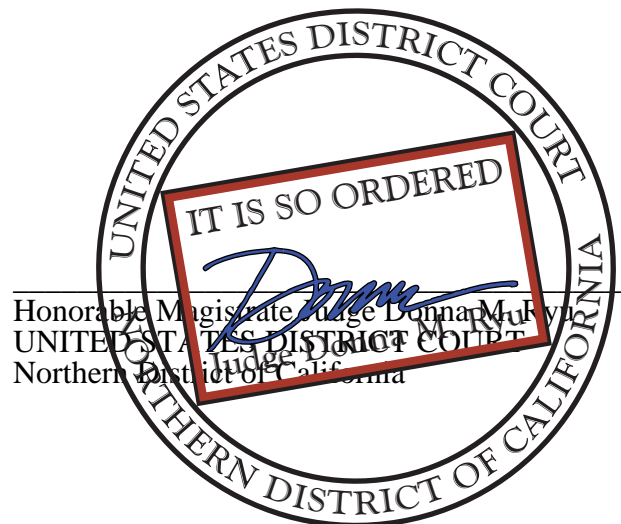
24 a) to Mastrangelo Law Offices, A Professional Corporation, the sum of \$6,083.69
25 for attorneys' fees and costs of \$845.21, a total of \$6,928.90;

26 b) to State Farm Insurance, the sum of \$2,500.00 for payment of the medical
27 payments lien;

1 c) the balance of the proceeds to WENDY STEVENS, as Guardian ad Litem of the
2 minor, K.S. in the sum of \$15,571.10 which will be kept in an interest-bearing, federally insured
3 blocked account at First Republic Bank, Orinda, California. This blocked account belongs to the
4 minor. The minor was born on September 26, 2011. No withdrawals of principal or interest shall
5 be made from the blocked account or accounts without a written order under this case name and
6 number, signed by a judge, and bearing the seal of this court, until the minor attains the age of 18
7 years. When the minor attains the age of 18 years, the bank shall, without further order of this
8 Court, shall pay by check or draft directly to K.S., the former minor, upon demand, all monies
9 including interest deposited under this order. The money on deposit is not subject to escheat. The
10 attorney for plaintiff-minor shall deliver a copy of this order to the Bank in which the funds are to
11 be deposited under this order. Proof of the deposit of these funds shall be filed with the Court
12 within ninety (90) days of this Order.

13 **IT IS SO ORDERED.**

14 Date: April 20, 2018



Honorable Magistrate Judge Donna M. Ryan
UNITED STATES DISTRICT COURT
Northern District of California